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HUMAN RIGHTS COMMITTEE

Seventy-fifth session

SUMMARY RECORD OF THE 2028th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 18 July 2002, at 10 a.m.

Chairperson: Mr. BHAGWATI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Yemen (continued)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Yemen (continued) (CCPR/C/YEM/2001/3; CCPR/C/75/L/YEM)

1. At the invitation of the Chairperson, the members of the delegation of Yemen resumed their places at the Committee table.

2. The CHAIRPERSON invited the members of the Committee to pose additional questions.

3. Ms. CHANET recalled that Mr. Amor had asked about the hierarchy of international instruments in relation to international law. The Committee was concerned with the implementation of the Covenant, and she hoped that the answers to the questions asked by members of the Committee would indicate the extent to which domestic law in Yemen ensured implementation of the Covenant's provisions.

4. Her first question related to article 6 of the Covenant and concerned the death penalty, in particular the role of the family in cases of private vengeance. Where the death penalty had not been abolished, the Covenant established a series of safeguards, including those in article 14. Family vengeance, as practised in Yemen, violated those provisions because the family was both judge and interested party. The requirement of an impartial tribunal was therefore not met. Furthermore, the proceedings differed depending on whether or not payment was made to the victim's family. Thus, a difference in wealth might give rise to discrimination, contrary to article 26 of the Covenant.

5. Her second question concerned women's rights and the requirement that a woman must be of good moral standing in order to be eligible for Yemeni nationality. Such a criterion also constituted discrimination in terms of article 26. Although the Covenant recognized morals as a determining factor in restricting certain rights, for example in relation to article 21, no such restriction was applicable under article 26. The prohibition of discrimination applied to eligibility for nationality, even though the Covenant guaranteed nationality only in the case of children.

6. Her third question related to article 40 of the Personal Status Act, which dealt with intimate details of marriage and, in particular, obliged a wife to allow her husband to have sexual intercourse with her. Such provisions were contrary to article 17 of the Covenant, which proscribed arbitrary interference in a person's privacy. They might also be seen as constituting degrading treatment of women, contrary to article 7 of the Covenant, holding women in servitude, contrary to article 8, and also contrary to article 23.

7. Mr. HENKIN requested clarification of the role of the Shariah in relation to domestic law. He understood that Yemen had not entered a so-called Shariah reservation, and he therefore assumed that references to the Shariah concerned cultural values, rather than constituting a legal

basis, for example in respect of amputation and flogging. Such practices remained on the books, although they were not carried out. He asked whether the Shariah was treated as a legal or a cultural system in Yemen. He would also like to know whether there was any truth in reports that the security forces had tortured detainees, contrary to the Convention against Torture, or had denied detainees the right to counsel. Finally, he requested information on reports of massive deportation to different countries, without asking the people concerned whether they wished to seek asylum, contrary to the Convention relating to the Status of Refugees.

8. The CHAIRPERSON invited the members of the delegation to respond to the additional questions raised by the Committee.

9. Mr. KAHTAN (Yemen) said that his country was making every effort to strengthen, protect and preserve human rights but, as he had pointed out at the previous meeting, several obstacles remained to be overcome. It was clearly impossible to transform a society overnight; profound change was a lengthy process. The authorities in Yemen were working resolutely to bring about change and to promote the observance of human rights. The legal provisions on human rights were very broad and, as in nearly every society, religious and traditional values were also taken into account. Indeed, such values were recognized by international instruments. He welcomed the opportunity for an exchange of views with the Committee and said that the presence of his delegation in Geneva clearly demonstrated the efforts being made by Yemen to break with the past and to strengthen respect for human rights. The answers to the questions raised by members of the Committee should be understood in the light of those introductory remarks.

10. With regard to the status of the Covenant in the hierarchy of domestic legislation, he recalled that article 6 of the Yemeni Constitution affirmed the State's acceptance of the Charter of the United Nations, the Universal Declaration of Human Rights, the Pact of the League of Arab States and the generally recognized principles of international law. In particular, Yemen had ratified the Covenant, whose provisions were therefore an integral part of national law, and judges were required to implement those provisions in cases involving human rights. Most of the provisions were covered by domestic laws, which were applied by judges. In the event of a dispute concerning human rights, there was nothing to prevent a party to the dispute from basing a case on the provisions of the Covenant. The obstacles to implementation of the Covenant arose from a lack of awareness of human rights issues in Yemen, rather than from any legal barriers. The Government had been making strenuous efforts to increase human rights awareness, working through the Supreme National Committee for Human Rights and various NGOs active in that field.

11. Several questions raised by the Committee had concerned observance of the State party's obligations under the Covenant, in particular with regard to equality between men and women. Concern had focused on polygamy, the need for a wife to obtain her husband's permission in order to leave the house, the obligation of a wife to obey her husband, and the right of a husband to divorce his wife without going to court. In response to those questions, he said that there was no contradiction between the Shariah and the Covenant, in particular article 23. The Covenant did not prohibit polygamy, but focused on such aspects as the free and full consent of the intending spouses. In practice, women participated alongside men in employment and daily activities, and indeed had a duty to contribute towards the maintenance of the conjugal home.

There was a balance between rights and duties, and the law sought to promote harmony in conjugal life. Where there was disagreement and disharmony, the law provided for the possibility of terminating a marriage through divorce, based on mutual consent.

12. Questions had been asked about the way in which human rights violations were dealt with and whether victims of such violations had a right to compensation. According to article 6 of the Yemeni Constitution, the generally accepted norms of international law applied. The Supreme National Committee for Human Rights brought cases to the attention of the competent authorities and monitored follow-up. Human rights violations were dealt with by the judiciary. Since 2001, some 300 complaints had been received, of which 80 per cent had been dealt with and followed up, resulting in settlement. The Supreme National Committee was seen as being on the side of the complainant, and had been criticized for its lack of impartiality in that respect. In addition to the Supreme National Committee, which was a government body, there were some 2,800 NGOs in Yemen, many of them concerned with human rights issues.

13. Mr. MAHDI (Yemen) confirmed that women were permitted to go out to work and, indeed, had a duty to contribute to domestic finances. Responding to questions concerning the state of emergency declared in 1994 following the civil war, he said that the state of emergency had lasted for only a short period and there had been no adverse effects on human rights.

14. Replying to questions about the role of human rights bodies, he said that, in addition to the Supreme National Committee for Human Rights, which was concerned with legal matters, including complaints of human rights violations, there were various administrative bodies and programmes whose purpose was to ensure that Yemen's obligations under international treaties were respected. Activities included promoting human rights, raising awareness, training and providing information on the principles of human rights. The Supreme National Committee acted as an interlocutor for NGOs and had clear terms of reference which guaranteed its independence. There were various other independent institutions in Yemen dealing with human rights, including a human rights training centre.

15. Questions had been asked about the many cases of capital punishment in the period 2000-2001. Having checked the files, he confirmed that the figure was 177, rather than the 186 cases mentioned. While the figure of 177 was high for a two-year period, it reflected a backlog of cases dating from the 1980s and 1990s, and thus was not an indication of a trend.

16. Girls who married were encouraged to continue their studies with a view to taking up employment, for example as teachers, and thereby contributing to family income. As indicated in paragraph 20 of the report, 41 women had stood as candidates for election to the House of Representatives in 1993, and 23 in 1997. Two women had been elected each time. The appointment of two women members to the Constitutional Council reflected a political will to see women represented on that august body. Women often held senior posts in ministries and administrative authorities. Domestic violence was not widespread and not much was heard about it. There was therefore no need for monitoring. Such violence as existed often went unreported. Although women tended not to lodge formal complaints and it was therefore difficult to supply reliable statistics, he did not think family violence was a major social trend, as it was in Western societies.

17. He asked Mr. Solari Yrigoyen to provide him with a summary of the case he had mentioned and the name of the person involved. A total of 12 people were awaiting execution in Yemen. In three instances the sentence had not been carried out as the people concerned had been declared insane.

18. Mr. MAHDI (Yemen), replying to the question about the number of persons sentenced for the crime of torture, reiterated the information contained in paragraph 43 of the report. No other cases had been recorded, but anyone could go to court and file a complaint of bodily harm against a police officer or indeed any other person. Yemeni legislation did not authorize the death penalty for an offender under the age of 18. Provided that person was of sound of mind, the rules on sanctions for minors would apply. Sometimes the age of the accused was disputed. If that happened, in accordance with the precepts of the Shariah the judge would give the accused the benefit of the doubt.

19. Mr. KAHTAN (Yemen) said that excision, an imported custom, was practised only in certain coastal areas of the country. The Government had taken measures to curb the practice and was trying to alert the population to the dangers of the operation. The Ministry of Health had trained medical staff to heighten their awareness of the importance of dissuading women from taking such a step. Only 5 per cent of the population were concerned, although some cases might go unrecorded.

20. Islamic law prohibited abortion, which was hence a punishable criminal act. Measures had been taken by the Government to protect pregnant women, embryos and infants. Unmarried women were expected to be virgins. Yemeni legislation granted Yemeni nationality to the children of Yemeni mothers, even if the father was not a Yemeni or was stateless.

21. The imprisonment of women was a matter of great concern to his Government. It was true that some women who had been convicted of crimes of honour remained in prison after they had served their sentence because their families refused to take them back; if they were released, they would be thrown onto the street and be a preyed on by criminals. Help was given to those women to adapt and lead a dignified life.

22. Mr. MOHAMAD HAJAR (Yemen) said that victims were not entitled to take revenge either under Yemeni legislation or under the Shariah. Extrajudicial vengeance was, however, sometimes exacted by the families of victims. Under national legislation, even if they killed a murderer, they themselves would be considered guilty of the same crime and their action would be viewed as a violation of the prerogative of the State. Indeed, in some cases, the authorities arrested alleged murderers immediately in order to prevent any attempt at revenge on the part of the victim's family. Furthermore, seminars, training courses and awareness campaigns had been organized to make people realize the futility of vengeance and the illegal nature of the act. Of course, the courts were responsible for dealing with such matters. In some cases, judges tried to negotiate with the elders of the families of victims in order to reach an amicable settlement and to ease tensions.

23. As to the question regarding equal treatment in terms of penalties, he explained that Yemeni society was characterized by relations based on charity, love and compassion. No

defendant would be left without assistance when required to pay compensation to a victim. A death penalty would be carried out before spectators, in general the family of the victim and the family of the criminal, but not until after the victim's family had been asked if it was prepared to grant pardon. If the victim's family agreed to do so, compensation would sometimes be paid by the family of the criminal. The families in question would be aware of each other's capacity and so compassion might prevail and a death sentence would thus be avoided. Unfortunately in other cases, no amount of money would prevent the victim's family from insisting on execution.

24. In response to the query regarding nationality, he said that, under Yemeni legislation, the foreign wife of a Yemeni would be granted his nationality. Children born in Yemen of stateless persons would be given Yemeni nationality. The husband of a Yemeni wife could acquire her nationality on certain conditions. The husband was held to be the head of the family and responsible for it.

25. Although amputation was allowed under the Shariah, his Government was aware of the severity of the measure and there had been no instances of amputation in practice. If that punishment were to be inflicted, certain criteria would have to be respected.

26. With regard to the media, he said that the journalist who had been accused of false reporting had been arrested, but had been found innocent and released. Some human rights organizations operating in his country lacked objectivity. They were quick to raise the alarm if someone was arrested, but did nothing to publicize the dismissal of a case.

27. After 11 September 2001, the whole region had been destabilized. Yemen had previously tried to maintain an open attitude to foreigners. At all events, the country's long coastline made it impossible to keep all entry points under complete surveillance and immigrants had come from Asia and the Middle East. So long as people abided by the laws of the country, they were not troubled by the authorities. Naturally, a more cautious attitude now prevailed and the authorities were seeking to ensure that everyone living in the country was there legally. Illegal residents had been arrested, but they had certainly not been tortured or ill-treated.

28. Mr. KAHTAN (Yemen), answering the question on liberty and security of person and the treatment of prisoners, quoted numerous articles of the Criminal Code which safeguarded the rights of persons who had been remanded in custody and enabled them to contact a lawyer as soon as they were arrested. No one could be arrested or interrogated without the approval of a judge. Judicial orders at various levels could extend pre-trial detention for interrogation purposes by 45-day periods up to a maximum of six months, after which the detainee had to be released on bail.

29. The Government was making every effort to improve prison conditions and much progress had been achieved. It had been decided that adults and minors should be separated, as should boys and girls. In some detention centres youngsters had the opportunity to continue their studies and practise sport. Child protection centres had recently been opened. The President of the Republic had ordered the establishment of a commission to monitor conditions in prisons and assist indigent prisoners. A subcommittee was responsible for inspecting prisons at the provincial level. The Supreme National Committee for Human Rights had likewise set up

a number of bodies to visit prisons with a view to suggesting improvements there. That Committee was also working with national and international bodies to organize seminars for prison staff aimed at informing them of the importance of respecting human rights. Genuine efforts were therefore being made to improve conditions in prisons despite budgetary constraints. Deaths in prisons were rare. When they did occur, the family of the deceased could demand an inquiry and autopsy, and it usually emerged that the person had died from natural causes. If there were ever any doubts surrounding the cause of death, anyone could apply to the courts for an investigation to be ordered.

30. In reply to question 16, he said that, under article 48 of the Constitution, the State was responsible for guaranteeing the freedom, security and dignity of persons in pre-trial detention. Only highly specific and unusual exceptions to that rule were permitted. Arrests required a judicial warrant. According to the Code of Criminal Procedure, a detained person must be held separately from convicted prisoners and not be subjected to any physical or moral coercion (art. 71), prisoners were innocent until proven guilty (art. 4) and the use of torture or physical or mental ill-treatment to extract a confession was prohibited, such confessions being considered null and void (art. 6). Furthermore, article 13 stipulated that any person detained illegally without a warrant or in a place other than a prescribed facility must be allowed to inform his relatives, so that they in turn could inform his lawyer or the courts. In addition, the Constitution contained provisions on petitions relating to the treatment of prisoners.

31. Referring to question 17, he said that the magistracy was a self-contained system responsible for determining the competence of judges and the conditions of their office. There were no special courts. Judges could be removed only in certain circumstances prescribed by the law, and could not be transferred to another post without their full consent. Transfers were effected only as a corrective or remedial measure. The working conditions, promotion, transfer and dismissal of judges were the responsibility of the Higher Council of the Magistracy (Constitution, arts. 150 and 152). Article 155 of the Constitution stipulated the following requirements for becoming a judge: Yemeni nationality, full legal capacity, a clean criminal record, a minimum age of 30, a minimum of two years' legal training, and no record of having been accused of crimes of honour or crimes involving breach of confidence.

32. With regard to appointments, the President and judges of the Supreme Court were appointed from a list of candidates supplied by the Higher Council of the Magistracy. The President of the Supreme Court appointed judges to the lower courts from among a pool of candidates approved by the Ministry of Justice, with the agreement of the Higher Council of the Magistracy. The Attorney-General and members of his Office were appointed by decree of the President of the Republic from among a pool of candidates chosen by the Ministry of Justice. Court auxiliaries were appointed by decision of the Higher Council of the Magistracy on completion of a two-year trial period. Under articles 65 and 66 of the Constitution, judges could be transferred from the court of appeal by a Decree of the Republic, subject to a recommendation by the Ministry of Justice. Judges from courts of first instance could be transferred by decision of the Higher Council of the Magistracy. All judges were granted a five-year term of office. The Ministry of Justice could decide to transfer a judge from the court of appeal to another court if his work so required, and from a court of first instance in one province to a similar court in another province subject to a request by the judge in question and a recommendation by the Higher Council of the Magistracy.

33. A judge or a member of the Attorney-General's Office who was remiss in his duties was required to appear before a council comprising three judges and three lay members, following submission of a request by the Ministry of Justice endorsed by the Higher Council of the Magistracy. Meeting in closed session, the Council had the power to impose a range of sanctions up to forced retirement. The removal of a judge from his post must be effected in full accordance with the law. The Council must be informed of all rulings on such sanctions.

34. In reply to question 18, he said that the allegations regarding the independence of the judiciary were completely unfounded. Under article 170 of the Constitution, the judiciary was a fully independent body. The courts examined cases concerning all kinds of offence, and no political interference was possible. On a number of occasions, courts had even found in favour of an individual and against the State. In answer to question 19, he said that the Shariah was universally recognized as the basis of Yemen's legal system. Like Islam itself, the law respected a multiplicity of religions and forms of worship. All the religions in Yemen coexisted peacefully. On question 20, he said that the Shariah advocated respect for the beliefs of others and for freedom of choice. However, anyone choosing to convert to the Islamic faith must respect its precepts and was not free to renounce it, since that undermined the security and stability of society.

35. Mr. ABDULLAH MOHAMED (Yemen) said there were no limits on freedom of opinion and expression, since article 40 of the Constitution established every citizen's right to participate in political, economic, social and cultural life. The State guaranteed freedom of opinion and expression, both oral and written, and also the freedom to take photographic images in the circumstances defined by law. Article 27 of the Constitution guaranteed the right to conduct scientific research and to create literary, artistic and cultural works in accordance with the spirit of the Constitution. The State guaranteed the availability of the means needed to achieve those ends, and afforded protection for literary, artistic and scientific creations. If limits on the freedoms of opinion and expression existed, they were the result of the ways in which individuals chose to enjoy their rights and freedoms. There were no widespread problems in Yemen in that regard, and certainly no problems liable to hinder Yemen's democratic development.

36. In reply to question 22, he drew the Committee's attention to paragraphs 114-117 of the report.

37. In relation to question 23, he said that article 2 of the Journalism Act defined a journalist as someone who practised, on a continuing basis, written or visual journalism for a foreign or Yemeni entity, and for whom journalism was the main livelihood. Article 7 stipulated that journalists for domestic organs must be of Yemeni nationality, not less than 21 years of age, and legally competent, and must have no conviction relating to any offence involving breach of honour or trust, except if they had been rehabilitated in accordance with the law. An appropriate postgraduate qualification was also required. Articles 7-9 set out the conditions under which the Ministry of Information could refuse or cancel a journalist's accreditation. Concerning the conditions of service for Arab and foreign journalists, article 27 of the Act stipulated that "A journalist shall be accredited as a correspondent for one or more of the mass media or Arab or foreign Governments or bodies after being granted an accredited correspondent's card." Under

article 28, the Ministry of Information was responsible for accrediting Arab and foreign journalists as correspondents for Arab and foreign newspapers, news agencies, and radio and television stations for a renewable period of one year with a view to the pursuit of their professional work within the country, under reciprocal arrangements with other countries. The Journalism Act set out all the conditions applicable to the work of Arab and foreign journalists. They had the right, inter alia, to obtain a residence and visas for themselves and their family, to open a press office, and to practise their profession all over the country, provided they complied with the law.

38. Answering question 24, he said that the Yemeni Constitution and laws provided for comprehensive protection of children's rights. His Government had recently framed new legislation, currently before Parliament, which drew extensively on the relevant international instruments and set out the responsibilities of the various government departments responsible for child protection in relation to health, education and nutrition. The Ministry of Health mounted regular vaccination and health protection campaigns, which were freely available to Yemeni and foreign children nationwide, and operated a system of clinics and dispensaries, reproductive health and obstetrics centres and two centres in Sanaa and Aden which offered legal advice to women. It was planned to open more such centres around the country. In Aden, a local NGO operated a programme of support for street children in collaboration with the Arab Centre for Children's Development. The Government planned to open six centres for orphans in selected cities and the capital, financed from the Social Protection Fund. Centres for female juvenile offenders were to be set up in the same cities.

39. In reply to question 25, he said that the human rights material included in the school curriculum focused on developing the intellectual and physical well-being of children, in keeping with the United Nations Charter, and increasing children's respect for the values enshrined therein and for their national culture. The State's aim was to prepare children for a responsible life as citizens, in a peaceful society in which both sexes were equal.

40. With regard to question 26, he replied that, in June 2000, the Ministry of Social Affairs and Labour had concluded an agreement with ILO concerning the elimination of child labour. The Ministry had subsequently inaugurated a new department concerned with the dissemination of information on related matters to schools. The department had begun an investment programme designed to help families - especially in rural areas - keep children away from work and in school. In the same six centres mentioned in connection with health education, the Ministry of Social Affairs and Labour organized educational programmes and carried out regular inspections to ensure compliance.

41. Mr. MOHAMAD HAJAR (Yemen), in reply to question 27, said that the Covenant was an integral part of his country's legislation. The Supreme National Committee for Human Rights and NGOs specializing in human rights were all working actively to disseminate and increase awareness of the Covenant. Government training courses and seminars relating to the Covenant, the Optional Protocol and the Universal Declaration of Human Rights had been held in several parts of the country for the staff of the legal services, the police, the Attorney-General's Office and the bar association, journalists and other members of civil society.

42. Regarding inquiries into cases of death in prison, he said that according to information provided by one NGO, a Mr. Salem al Yafi, who had died in prison, might have been subjected to torture. A commission of inquiry had been set up to investigate the matter and it had emerged that the man had been sentenced to several years of imprisonment for theft. There was no indication that he had been tortured for there was no information to be gained from him by torture. He was, however, a sufferer from asthma, which had probably in the end led to a heart attack. He had died of natural causes as a result of his long illness and no crime had been involved. His family were free to complain about his treatment, but there had been no approach by the family.

43. Mr. KHALIL said that he joined other members of the Committee in commending the spirit of dialogue and openness to constructive criticism shown by the Yemeni delegation. Certain questions nevertheless remained with regard to freedom of expression and the press. Paragraph 108 of the report contained a statement to the effect that freedom of thought and expression of opinion constituted a cornerstone of the legal and political system. A member of the delegation had cited a number of enactments said to guarantee those fundamental freedoms. The key issue for the Committee, however, was how respect for, and the promotion of, those rights were ensured in practice. The Yemeni Minister for Human Rights had said in a meeting with the press that human rights and the press were two sides of the same coin. He understood, however, that legal proceedings had been brought against eight newspaper and magazine editors. If that was indeed the case, he would like to know what charges had been brought against them. Had any other legal action been taken against journalists and members of the press preventing them from carrying out their profession? He had been informed that one journalist, Mr. Hassan al Zaidi, had been arrested on two occasions in June and September 2001 and held for three weeks. Mr. Nabil al Komiem, a correspondent for one of the Gulf media groups, had been arrested in April for questioning about the sources of his information.

44. Members of the Committee had referred at the previous meeting to the dangers involved in the campaign against terrorism and possible threats to civil and political rights. He hoped that the Yemeni Government would continue its efforts to ensure and broaden those rights despite any external pressures that had been exerted since 11 September.

45. In conclusion, he said he understood that the Supreme National Committee for Human Rights was publishing a magazine. He asked how the publication was being distributed and how far it was proving effective in promoting human rights in Yemen. If the delegation had a copy of the magazine, he would like to see it.

46. Mr. KLEIN said that there seemed to be some contradiction in the statements from the delegation to the effect that full implementation of the Covenant could not be expected overnight and the claim that most of the practices rooted in tradition and religion in the Yemen were already in full conformity with the country's international commitments. The message conveyed seemed to be that no early change could be expected.

47. He had been very surprised to hear from the delegation that there were no limitations on freedom of expression and the press. The articles of the Press and Publications Act listed in the report contained many limitations and restrictions that required examination for conformity with the Covenant. The limitations in article 34 of that Act regarding newspaper ownership were set

out in paragraph 114 of the report. Moreover, in the oral responses to the list of issues, the Committee had been told that Yemeni citizenship was a prerequisite for ownership of a newspaper. He wondered whether that was actually in compliance with the terms article 19 (3) of the Covenant. He would also like to know whether, if all the requirements were fulfilled, the Government was obliged to issue the licence requested or whether that remained at the Government's discretion.

48. In the response to question 15 of the list of issues, about steps to improve conditions in prisons, the Committee had been told that economic constraints made the fulfilment of the provisions of article 10 (1) impossible. It was the Committee's frequently expressed opinion, however, that economic constraints did not relieve a country of compliance with its obligations. If a State party accepted certain obligations under the Covenant, budgetary means for fulfilling them should be made available.

49. Mr. ANDO said that he, too, had a number of questions about freedom of opinion and expression. Paragraph 111 of the report quoted article 4 of the Press and Publications Act to the effect that the press should be independent and free to fulfil its mission of forming public opinion and expressing trends in public opinion by "various means consistent with the Islamic religion, the constitutional principles of society and the State, the aims of the Yemeni revolution and the strengthening of national unity". He wondered whether those limitations were in conformity with article 19 (3) of the Covenant.

50. He endorsed Mr. Khalil's question about the fate of a number of journalists. He also noted that there was a statement in paragraph 115 of the report, taken from article 40 of the Press and Publications Act, to the effect that parties, innovative grass-roots organizations, ministries and government institutions should be exempt from the provisions of articles 34 and 35 of the Act in regard to the publication and dissemination of their newspapers and magazines. He would like to know how "innovative grass-roots organizations" were defined.

51. Mr. AMOR said that the very useful information supplied by the Yemeni delegation had answered nearly all the questions put by the Committee. A few important points, however, remained. First, what was the exact status of the Covenant in the hierarchy of Yemeni legislation? For example, if one party to litigation were to ask a judge to implement a provision of the Covenant and the other party asked the judge to apply the provisions of national legislation or the Shariah, which would prevail?

52. Secondly, as far as the execution of the death penalty was concerned, there was still some confusion. The Committee had been told that the consent of the President was required for the enforcement of the death penalty and that there was nobody awaiting execution. At the same time, the Committee was informed that 177 death sentences had been carried out. He wondered whether the offences of the persons who had been executed dated back to the unsettled 1980s and 1990s.

53. Lastly, there seemed to be some inconsistency between the provisions of article 11 of the Covenant and the explanation in the report about imprisonment for contractual debt. He noted that the report seemed to draw a distinction between Yemeni citizens and other residents in

instances in which no distinction was made in the Covenant. He would like to know more about the position of non-citizens. He would also welcome further information on regional and tribal trends.

54. Mr. KAHTAN (Yemen), in response to Mr. Amor and Mr. Khalil, said that the Government was doing its best to implement the Covenant as though it was national legislation. A certain flexibility was necessary, for example, in reconciling the regulations governing the press and the provisions of the Covenant. As to which should take priority, in the hypothetical situation mentioned by Mr. Amor, he believed that an international instrument like the Covenant should take precedence. As a member of the Committee had pointed out, if Yemen had wished to enter a reservation to the Covenant on the basis of the Shariah, it could have done so. Hence, in cases where the legislation was not compatible, an effort was made to give the provisions of the Covenant priority. Judges in the courts were engaged in just such a process, although there was not always complete agreement among them. The Koran itself was subject to varying interpretations. It was his own belief that there was nothing in the Covenant that was incompatible with Islam.

55. Replying to the question about Mr. Hassan al Zaidi, he said he had been informed that an inquiry had shown that that man had participated in the abduction of a member of a Yemeni tribe. Having been involved in a crime, he was liable to the punishment prescribed by law. He regretted that he had no detailed information regarding the fate of the other journalist. Many of the so-called restrictions on the press were matters of organization and methodology. He believed there was nothing in the Yemeni Press and Publications Acts that was incompatible with the Covenant. Freedom of expression could not be allowed to entail the undermining of religious faith and national unity. Journalists must show respect for their readers. Accordingly, objective criteria were applied in order to establish a framework for the press and impose discipline on the profession of journalism.

56. While he agreed that the explanation of capital punishment had been somewhat confused, he believed that no real incompatibility with the Covenant was involved. The capital punishments meted out in 2000 and 2001 were not all for cases that had arisen in the 1980s and 1990s. At one stage in Yemen, the President of the Republic had for three or four years refused to accept applications for capital punishment. He had postponed the execution of a number of sentences so as to try to find ways of commuting them. However, the President could not intervene where the rights of citizens were involved and some of those death penalty cases had involved the rights of other persons and had therefore gone ahead. Mention had been made of a large number of cases of persons liable to capital punishment. Of those, 12 were likely to receive the death penalty. In others, there might be a suspension of sentence or commutation to life imprisonment, in yet others some of the persons concerned had become insane and were no longer regarded as responsible for their acts, and so on. In the end, 15 cases remained to be settled. One was to be returned to court for retrial and the family of the victim was no longer seeking capital punishment. Fourteen cases, therefore, would go to the President. There would be meetings between the families involved and a settlement might be agreed upon. Thus, the Yemeni system offered many possibilities for avoiding capital punishment.

57. In response to Mr. Klein's question about prison conditions, he could say out of his own experience in prison management that sincere efforts were being made to improve them, as the Covenant required.

58. In conclusion, he said the delegation would be happy to provide a copy of the magazine referred to by Mr. Khalil. Arrangements could be made for the Committee to receive it regularly.

59. The CHAIRPERSON thanked the delegation for its detailed and comprehensive answers to the various questions put by members of the Committee. A number of other concerns would no doubt be expressed in the concluding observations which would be made available to the delegation at the end of the session. In the meantime, he wished to congratulate Yemen on the timely submission of its periodic reports and to express appreciation for the efforts that were being made to improve the human rights situation. The many questions asked were not intended as criticism but designed to help Yemen build up an appropriate human rights regime. He was sure that the Government would take the Committee's concluding observations into account and that efforts would be made to remove any deficiencies pointed out by the Committee.

The meeting rose at 1 p.m.